Date: March 23, 1995

Status of Federal Legislation

Sandra R. Rhodes

Area Agencies on Aging Directors
SOFA Advisory Committees
Ad Hoc Coalition Members
LTC Ombudsman Program Directors
Legal Services Providers

CONTRACT WITH AMERICA LEGISLATION

Balanced Budget Amendment (H.J. Res. 1): On March 2, the Senate failed by one vote to pass a balanced budget amendment to the U.S. Constitution. The measure failed by a vote of 65-35. By switching his vote at the last minute to “no,” Senate Majority Leader Robert Dole (R-KS) reserved his right to bring up the amendment later. Social Security was the major stumbling block to Senate passage of the balanced budget resolution (H.J. Res. 1). Senators Byron Dorgan (D-ND) and Kent Conrad (D-ND), who favor a balanced budget, were unwilling to vote for passage unless it included protections for Social Security. Even if the Senate had been able to pass the balanced budget amendment, there was no guarantee it would be ratified by 38 states, as required by the U.S. Constitution. States would have seven years to decide on whether or not to adopt the measure.

FFY 1995 Appropriations Rescissions (HR1158): On March 16, the House passed by a vote of 227-200 legislation to rescind $17.1 billion in previously approved appropriations. This package of rescissions is meant to offset the Administration's supplemental spending request for emergency earthquake and flood relief for California and other domestic needs. Senate action is uncertain and the president could veto the bill. The measure is just the beginning of an additional $1.2 trillion in cuts needed to meet the Republican goal of balancing the budget by 2002.

The following are the proposed House cuts in the current FFY 1995 spending levels for programs serving older Americans:
**FFY 1995 Rescissions**

<table>
<thead>
<tr>
<th>Program</th>
<th>Amount (in Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>JTPA Adult Training</td>
<td>$33.0</td>
</tr>
<tr>
<td>(eliminates 1/2 of the FFY 1995 increase)</td>
<td></td>
</tr>
<tr>
<td>Displaced Worker</td>
<td>$99.3</td>
</tr>
<tr>
<td>(eliminates 1/2 of the FFY 1995 increase)</td>
<td></td>
</tr>
<tr>
<td>OAA Title V - SCSEP</td>
<td>$14.4</td>
</tr>
<tr>
<td>(reduced to FFY 1995 Administration request)</td>
<td></td>
</tr>
<tr>
<td>Low Income Home Energy Assistance</td>
<td>$1,319.2</td>
</tr>
<tr>
<td>(eliminates advance funding for FFY 1996)</td>
<td></td>
</tr>
<tr>
<td>(FFY 1996 Savings)</td>
<td></td>
</tr>
<tr>
<td>OAA Title IV</td>
<td>$0.9</td>
</tr>
<tr>
<td>(rescinds increase for FFY 1994 aging research &amp; training)</td>
<td></td>
</tr>
<tr>
<td>HCFA-Insurance Counseling</td>
<td>$5.5</td>
</tr>
<tr>
<td>(rescinds 1/2 FFY 1995 funding)</td>
<td></td>
</tr>
</tbody>
</table>

**Older Americans Act Programs:** The House action would rescind $14.44 million of the $410.5 million approved last year for the Senior Community Service Employment Program (SCSEP) operated by the Department of Labor (DOL) under Title V of the Older Americans Act, as well as $899,000 from the increase approved for Title IV research and training programs for FFY 1995. Such a cut would reduce SCSEP funding to national contractors by $11.3 million and state grants by $3.2 million, returning the program to the FFY 1993 funding level. SCSEP funds are not obligated by DOL until July 1. The SCSEP rescission would deny work opportunities to approximately 3,000 poor Americans over age 55.

**Low Income Home Energy Assistance Program (LIHEAP):** The House bill follows Appropriations Committee recommendations to rescind $1.319 billion in advance funding for October 1, 1995 through September 30, 1996, for LIHEAP. It is estimated that the LIHEAP cuts would affect 2 million elderly households assisted with their winter heating bills.

**Low-Income Weatherization Assistance Program:** The recommended rescission to this Department of Energy program is $14.8 million that was cut from technical and financial assistance, leaving only a $5 million increase over FFY 1994 levels.

**Housing:** A total of $7 billion in rescissions were recommended, including: $5.7 million from assisted housing ($1.7 million would be from prior year unspent funds); $2.7 billion from rental assistance under the Section 8 existing housing certificate program; and $38 million from housing counseling assistance. The House restored a $37 million committee cut in congregate services. About 40 percent of the housing cuts would affect senior citizen housing.

Many of the proposed budget cuts were targeted at programs that received an increase for FFY 1995 above the FFY 1994 levels. The bill will be considered in the Senate next. If there are differences between the two rescission packages, it will go to conference.

**Discretionary Spending Reduction Bill (HR1219):** On March 16, the House Budget Committee approved a plan (HR1219) designed by Chairman John Kasich (R-OH) to cut $100 billion in discretionary spending over the period 1996-2000. Coupled with $64.6 billion in savings from welfare reform and several other programs totaling about $36 billion, Kasich stated that his plan would save about $190 billion over five years, enough to pay for both a middle class tax reduction and help to reduce the deficit.

According to Kasich, the list of spending cuts is only a suggestion to show how $100 billion could be cut. He acknowledged that the appropriations subcommittees with jurisdiction over the programs would have to make the final decisions.

The Republican "suggestion list" contains over 140 cuts, including: $7.2 billion by eliminating the Low Income Home Energy Assistance Program; $578 million by eliminating the Agency for Health Care Policy Research; $57 million by eliminating the
Office of Rural Health Policy; $59 million by reducing the Senior Community Service Employment Program to the level requested by the president for FY 1995; and $681 million by cutting domestic volunteer services. In addition, Kasich stated that his plan would save an additional $91 billion by eliminating the annual spending growth adjustments based on inflation for discretionary spending in FY 1996-FY 2000.

**SSI/Welfare Reform (HR4):** The House Ways and Means Subcommittee on Human Resources approved a Republican welfare reform plan that would curtail certain Supplemental Security Income (SSI) benefits, which are for low-income elderly, blind and disabled people. However, it stopped short of ending cash benefits for low-income seniors. SSI is the fastest growing welfare program in the country and has been subject to abuse. The subcommittee voted to prohibit giving cash to drug addicts and alcoholics and tighten the eligibility rules for low-income disabled children so only the most severely impaired children would receive benefits. The bill also would replace the Aid to Families with Dependent Children (AFDC) program and child abuse and prevention programs with block grants. The bill has moved to the full committee.

**Food Stamp Reform (unnumbered):** On March 8, the House Agriculture Committee agreed to reduce the Food Stamp Program by cutting eligibility and benefits. The bill will be merged with welfare reform legislation from other committees and put into a single bill by the Rules Committee and sent to the House later this month. It would allow states to take over the Food Stamp Program in block grant form if they have implemented a statewide Electronic Benefits Transfer (EBT) system for delivering food stamps. Only Maryland has such a system now.

**Unfunded Mandates (S1, HR5):** Congress has approved the Unfunded Mandate Reform Act of 1995 that would make it more difficult for Congress to impose costly requirements on state and local governments without providing more funding. The Senate passed S1 on a 91-9 vote and the House on a 394-28 vote. Under the bill, future laws and regulations cannot burden state and local governments with more than $50 million in costs or the private sector with more than $100 million. Any legislation pending before the House or Senate that does not meet these requirements can be ruled out of order and be considered only if a majority in the House and Senate agrees. In addition to bills, the measure applies to floor amendments and conference reports, which often contain mandates in report language. The measure also requires both chambers to use certain expedited procedures when notified that a mandate is underfunded.

Federal agencies issuing new rules must prepare a written analysis of present and future costs and benefits of mandates. State and local government officials, as well as private companies, are allowed to sue Federal agencies that do not conduct required cost-benefit analyses. However, the courts will consider only whether such analyses had been completed, not whether they were done as well as possible. The new conditions would not be retroactive and would exempt constitutional, civil rights or discrimination laws. The bill has been sent to the President for his signature.

**Paperwork Reduction Act (HR830, S244):** Intent on lessening the role of government in private businesses and on the lives of individuals, both the House and Senate have approved legislation designed to reduce the amount of paperwork required by all Federal agencies.

With little debate, the House on February 22 passed the Paperwork Reduction Act (HR830) by a vote of 418-0. The bill requires an annual 10 percent across-the-board cut in the paperwork burden imposed by the Federal government. The legislation would also permanently reauthorize the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB), which is responsible for implementing the paperwork law, and would make it easier for individuals to request a review of a Federal rule that required paperwork.

The bill would overturn the 1990 Supreme Court decision in Dole v. United Steelworkers of America, which said OIRA's authority to review and reject paperwork regulations did not extend to those that forced businesses to produce data for a third party, including employees and the public. Under the new bill, all paperwork requirements, including those for a third party, would be subject to review.

The House also adopted by voice vote amendments that would make it a priority for OIRA to reduce the paperwork burden for companies of 50 employees or less, give private citizens the right to challenge in court paperwork regulations that had not been cleared by OMB, and require recordkeeping rules to indicate how long the information must be held.
On March 7, the Senate passed its version of the bill (S244) by a vote of 99-0. The Senate bill would impose a 5 percent reduction in paperwork and would reauthorize OIRA for five years. It would limit the number of reports that Congress requires from Federal agencies. Like the House version, it overturns the 1990 Supreme Court decision in Dole v. United Steelworkers of America and clarifies that all paperwork requirements would be subject to review.

Congress had reauthorized the Paperwork Reduction Act of 1980 nine years ago (PL 99-591), but the authorization of that law lapsed in 1989. Lawmakers in the House and Senate will meet in conference to work out the differences between the two bills. The concept behind the bills has strong bipartisan support and has been a goal of President Clinton's "reinventing government" effort.

**Regulatory Moratorium (HR450, S219):** The House approved legislation on a 276-146 vote to bar most new federal regulations in 1995. It also would halt any rules proposed since November 20 until regulatory reform legislation (HR926) is passed by Congress. The bill is designed to give Congress time to reexamine the Federal regulatory system and install cost-benefit and risk assessment tests for new rules. The bill could delay rulemaking pending at the Administration on Aging, the Health Care Financing Administration and other agencies. President Clinton has threatened to veto such a bill. In addition, the Senate Governmental Affairs Committee has approved a bill (S219) limiting new rules.

**OTHER FEDERAL BILLS**

**Long Term Care (S411):** Legislation introduced by Senator Olympia Snowe (R-ME) would set standards for private long term care (LTC) insurance policies, improve the tax treatment of LTC policies, and define a dependent as any parent or grandparent of the taxpayer for whom the taxpayer pays LTC expenses. This would allow children and grandchildren to deduct such expenses from their taxable income. It would expand the dependent care tax credit to make it applicable to respite care expenses regardless of the caregiver's employment status. The bill would also create tax deductions for individuals who maintain a household including a dependent who has Alzheimer's disease or a related disorder. It would allow deductions for expenses, other than medical, related to the home health care, adult day care and respite care of an Alzheimer's victim.

**Long Term Care Consumer Protections (HR1221):** Legislation introduced by the four co-chairs of the House Older Americans Caucus - Reps. Ron Wyden (D-OR), Joe Kennedy (D-MA), Ralph Regula (R-OH) and Connie Morella (R-MD) - would create consumer protections for purchasers of LTC insurance policies. Specifically, the bill would create Federal standards for LTC insurance and establish civil monetary penalties of up to $25,000 per violation of the standards.

**Social Security Pro-Rate Amendment (S406):** Legislation introduced by Senator Olympia Snowe (R-ME) would amend the Social Security Act to provide that a monthly insurance benefit will be paid for the month in which the recipient dies to the recipient's surviving spouse, subject to a 50 percent reduction if the recipient dies during the first 15 days of the month.

**Mandatory Retirement Age (HR849):** The Employer-Employee Relations Subcommittee of the House Economic and Educational Opportunities Committee approved legislation (HR849) that would permit states and localities to set mandatory retirement ages for public safety workers such as police and firefighters.

The bill would amend the Age Discrimination in Employment Act of 1967 (ADEA), which prohibits employers from discriminating against older workers or requiring them to retire by a certain age. Congress exempted public safety workers from the ADEA in 1986 because of the physically and mentally demanding nature of their jobs, but the exemption expired at the end of 1993.

Under HR849, public safety workers would be permanently exempt from ADEA, which would allow local law enforcement agencies and fire departments to set mandatory retirement ages for their employees. The measure would also permit agencies to set maximum entry ages for recruits, and allow states and localities to incorporate the rules into their overall personnel policies for public safety officers.

**Dependent Care Credit (S410):** A bill introduced by Senator Olympia Snowe (R-ME) would make the dependent care tax credit refundable.
Medicare Reductions (HR1134): On March 8, the House Ways and Means Committee approved on a voice vote HR1134, which would permanently disallow the use of inflation that occurred during FFYs 1994-95 (when freezes were in effect) in setting both future skilled nursing facility and home health limits under the Medicare program; permanently set the Medicare Part B premiums, which pays for physician visits, at 25 percent of program costs; and permanently extend the Medicare secondary payer provisions that would otherwise have expired in FFY 1998. The Clinton administration supports the bill.

Medicare SELECT (HR483 and S198): On March 8, legislation (HR483), cosponsored by Rep. Bill Thomas (R-CA) and Rep. Nancy Johnson (R-CT) that would expand the Medicare SELECT program to all 50 states and make it permanent, was approved by a vote of 31-2 by the House Ways and Means Committee. Senator John Chafee (R-RI) has introduced a companion bill (S198) in the Senate.

The Medicare SELECT program is a demonstration to provide lower-cost health coverage to the elderly by shifting them into managed care. The program, currently available in only 15 states and due to expire on June 30, allows seniors to buy SELECT health care plans at lower rates than they would get under Medicare and a Medigap policy, provided they use the plan’s network providers. The Congressional Budget Office estimates that extending these provisions of the 1993 Omnibus Deficit Reduction Bill (PL 103-66) would save $10.5 billion over 5 years.

Senior Housing (HR660): The House Judiciary Subcommittee on the Constitution unanimously passed legislation introduced by Rep. Clay Shaw (R-FL) that would remove the “significant facilities and services” requirement for seniors-only housing from the Fair Housing Act. The meaning of this language has long caused controversy, and seniors’ communities have been hit with numerous lawsuits challenging their qualification under the provision. If a community can prove 80 percent of its units have one or more occupants age 55 and older, and meets other requirements, it passed the “housing for older persons” test. The bill would also exempt real estate agents and condominium board members who acted in “good faith” from liability for monetary damages in suits resulting from the seniors-only provision.

OTHER ACTIVITIES AFFECTING SENIORS

WHCOA Committee Obligations: Delegates to the White House Conference on Aging (WHCOA) will have time to become acquainted with the draft issues resolutions they are expected to refine at the conference, thanks to the preconference work of the issue resolutions steering groups, resolutions committee and advisory committee.

At a March 3 advisory committee meeting, WHCOA Executive Director Bob Blancato and Associate Director Ann Queen explained the resolutions development process as follows.

Four issue resolution steering groups will synthesize recommendations from preconference events into resolutions under each conference issue. The approximate number of resolutions to be developed for each issue are as follows:

- Comprehensive Health Care - 20 resolutions
- Economic Security - 15 resolutions
- Housing and Support Services - 10 resolutions
- Quality of Life Issues - 15 resolutions

The 60 resolutions will be reviewed by the resolution committee, which is composed of policy and advisory committee members, for duplications and “germaneness.” The committee will then prepare 40 draft resolutions covering all issues. The draft resolutions will be sent to WHCOA delegates on April 10. Background papers on key topics such as the Older Americans Act, Medicare and Medicaid will also be sent out with the draft resolutions, only after they have been reviewed and commented on by the advisory committee.

At the WHCOA, delegates will be able to sit in on three of the 22 Issue Resolution Development Sessions (IRDS). There will be one session for each subissue of the four issues. Changes in the resolutions from the IRDS will be reviewed by the appropriate issue resolution steering group and modified resolutions will be forwarded to the resolutions committee. Then, a new set of modified resolutions will be presented to delegates for voting.
After the conference, resolutions will be reviewed and prioritized by the advisory committee for the proposed report to the President. The policy committee will also review the proposed report before it is sent to the states. The final policy committee recommendations to the President and Congress are anticipated to be submitted by the end of this year.

**NGA’s Proposal for an Aging Services Block Grant:** The National Governors’ Association (NGA) adjourned its four-day winter meeting without taking up a proposal for an Aging Services Block Grant. The proposal would have combined nutrition, supportive services and elder rights programs under the Older Americans Act with Agriculture Department elderly nutrition, Transportation Department elderly and disabled transportation, Older American volunteer and other programs. The governors also failed to reach a compromise on whether welfare benefits should remain an entitlement.

**GAO Report on Prior Block Grants:** According to a new General Accounting Office (GAO) report, combining Federal programs into block grants is something that should be done with care to ensure program accountability and quality. The report expanded on the following lessons learned by GAO:

- There is a need to focus on accountability for results under block grants, which carry significantly reduced Federal data collection and reporting requirements compared with categorical programs. States sometimes have increased their reporting requirements for local service providers.

- Block grant funding allocations based on prior categorical distributions "may be inequitable because they do not reflect need, ability to pay and variations in the cost of providing services."

- States will face more difficult challenges in the transition to block grants because the programs being considered for inclusion in block grants now are much larger and are fundamentally different. The last large-scale block granting was done when nine block grants were created from 50 categorical programs by the Omnibus Budget Reconciliation Act of 1981.

GAO examined the 15 block grant programs in effect today. They comprise only a small part (11 percent) of Federal aid to states, which totaled $206 billion in FFY 1993. About $32 billion was awarded for block grants in 1993. In general, where states had operated programs as categorical grants, the transition to block grants was smoother. This occurred because states relied on existing management and service delivery systems. However, the transition was not smooth for two block grant programs that had previously been funded by the Federal government through local agencies instead of the states. These two were the Low Income Home Energy Assistance Program (LIHEAP) and the Community Services Block Grant (CSBG). States experienced a 12 percent funding reduction when these block grants were created, but used a variety of coping techniques, including using carryover funds from the prior categorical programs, supplemented with states revenues. This helped offset the funding reductions in the first several years.

GAO identified three other problems: 1) initial funding allocations were based on prior categorical grants and, therefore, not necessarily equitable; 2) problems persist in the kinds of information available for Congress and program managers to oversee the block grants; and 3) state flexibility was reduced as funding constraints were added to block grants over time.

A copy of the report, Block Grants: Characteristics, Experience and Lessons Learned, is available as GAO/HEHS-95-74 from GAO, (202) 512-6000.